

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
AT CIRCUIT SITTING SHIMLA**

...
ORIGINAL APPLICATION NO.063/00528/2018

Chandigarh, this the 13th day of December, 2018

...
**CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

...

Atul Kumar Gupta s/o Sh. Sushil Kumar Gupta aged 30 years, working as Sub Post Master on officiating basis at Sub Post Office, Kupvi, Shimla under Senior Superintendent of Post Offices, Shimla Division, Shimla (H.P.)

....**Applicant**

(Present: Mr. D.R. Sharma , Advocate)

Versus

1. Union of India, through its Secretary, Ministry of Information and Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. The Chief Post Master General, Himachal Pradesh Circle, Shimla – 171009.
3. Senior Superintendent of Post Offices, Shimla Division, Shimla.

....
Respondents

(Present: Mr. Anshul Bansal, Advocate)

**ORDER (Oral)
SANJEEV KAUSHIK, MEMBER (J)**

1. The present O.A. has been filed by the applicant seeking issuance of a direction to the respondents to relieve him forthwith, taking in view the fact that his case for transfer from HP Circle to UP Circle, with loss of seniority, has already been approved, under rule 38 of P & T Manual.
2. The facts are not in dispute. The applicant joined the respondent department as Postal Assistant at Rohru under H.P. Circle on 27.07.2011. Due to ill health of his wife, he moved a representation on 02.03.2013 under Rule 38 P & T Manual for his transfer from HP Circle to Faizabad Division UP Circle. His request was forwarded vide recommendation dated 08.12.2014. At the first

instance, Faizabad Division declined his request on the ground that there is no vacancy available against which the applicant can be posted. He made another representation dated 24.07.2015(Annexure 4-B) with the request to consider his case for transfer to any other Division in UP Circle. A recommendation was again made in favour of the applicant vide letter dated 08.12.2015 to post him at Sultanpur Division, and the U.P. Circle approved the case of the applicant for inter circle transfer under Rule 38 after the consent of Respondent No.

2. However, instead of relieving the applicant, to join at Sultanpur Division, the respondents posted him at S.O. Kupvi, Shimla in the H.P. Circle itself, on the plea that there is shortage of staff in HP Circle where the applicant is working, and he will be relieved after the recruitment of new Postal Assistants.

3. We have heard learned counsel for the parties,

4. Learned counsel for the applicant submitted that once his request for transfer from HP Circle to UP circle has been acceded to by the Competent Authority then the respondents cannot retain him on a false plea that there is shortage of staff. He submitted that Sh. Atul Kumar Verma, Postal Assistant, who also applied for inter circle transfer on similar lines has been relieved in March, 2018, but the applicant has been discriminated against by the respondents by not relieving him from HP Circle. He also submitted that in the year 2017 the respondents have made recruitment against 157 posts of Postal Assistant in HP Circle out of which eight have joined at Shimla Circle. He prayed that in view of the changed circumstances also, a direction may be issued to the respondents to relieve the applicant forthwith.

5. Learned counsel for the respondents argued what has been pleaded in the written statement.

6. We have given our thoughtful consideration to the entire matter and are of the view that the O.A. deserves to be allowed for the simple reason that once on medical grounds the request of the applicant for inter circle transfer has been recommended by the HP Circle and approved by the UP Circle, then the respondents cannot withhold his relieving, at this stage. There is another reason that once a similarly situated person has been allowed to be relieved and join another Circle on medical grounds then the respondents cannot discriminate against the applicant as it is violative of Articles 14 and 16 of Constitution of India. Thirdly, recruitment drive appointing a number of Postal Assistants has also been carried out in 2018 itself, and the selectees have joined, therefore the ground of shortage of staff is also not available to the respondents.

7. In the wake of above, the present O.A. is allowed. The respondents are directed to relieve the applicant forthwith. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 13.12.2018

‘mw’